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procurement and data processing organizations, any modification to the FPDS design must be approved by the Administrator.

THRESHOLDS

Section 9 adds a new section to the Office of Federal Procurement Policy Act which authorizes the Administrator to adjust the small purchase ceiling. Section 2304(i) of the Armed Services Procurement Act and Section 302(g) of the Federal Property and Administrative Services Act set a ceiling for small purchases at \$25,000. This ceiling, which started at \$1000 in 1947, has been adjusted by Congress periodically to reflect inflation. Authorizing the Administrator for Federal Procurement Policy to adjust this ceiling to reflect changes in the economy will preclude the necessity of bringing this matter back to Congress every few years. Tying the adjustment to selected economic indices is a safeguard against arbitrary adjustments, and limiting the adjustments to not more often than every three years will ensure adequate stability.

EFFECT ON EXISTING REGULATIONS

Section 10 deletes Section 10 of Public Law 93-400 (41 U.S.C. 40a) in its entirety. This section provided that procurement policies, regulations, procedures, and forms continued in effect until repealed, amended, or suspended pursuant to the adoption of the uniform procurement system.

AUTHORIZATION OF APPROPRIATIONS

Section 11 would amend the Act's current provisions for authorizing OFPP appropriations (Sec. 11 of Public Law 93-400, 41 U.S.C. ~~§~~10) in three ways:

1. It removes the dollar ceiling in present law as not being relevant;
2. It extends the life of the OFPP for 5 years to cover the expected implementation phase of the Federal Procurement System; and
3. It removes the reference to the Federal Acquisition Institute, which will be assigned to an operating agency rather than be an integral part of the OFPP. The new location is more in tune with the Institute's operating nature. The Institute will still have the leadership responsibility for coordinating Government-wide aspects of agency career management programs, spearheading training in new policies, and working with the Office of Personnel Management on any obstacles to professional development of the Federal procurement work force.

This section has also been amended to include the name of the Committee of the House to which authorization legislation shall be referred.

DELEGATION OF AUTHORITY BY ADMINISTRATOR

Section 12 redesignates former section 12 as section 10 which permits the Administrator to delegate certain authorities and functions, except the basic

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authority to provide overall leadership in the development of Federal procurement policies, and in implementing and maintaining the Federal procurement system. Thus, the Administrator may delegate authorities and functions, for example, to interagency groups, or to an individual agency acting as executive agent for OFPP. The Administrator may also delegate functions in connection with developing Federal procurement policy, but must retain overall direction of such efforts.

PROGRESS REPORTS

Section 12 adds a new section 12 to the Office of Federal Procurement Policy Act which requires the Administrator to keep the Congress informed on the overall progress of the Federal procurement system for the first four years after the enactment of this bill's amendments.

Subsection (1) requires that Congress be kept informed annually on the progress of establishing standards for the operation and performance of the Federal procurement system. Government-wide standards are the joint responsibility of the OFPP and the executive agencies. Agency unique standards, on the other hand, are the sole responsibility of the individual agencies. OFPP is to keep the Congress informed on the progress of both.

Subsection (2) requires that the Administrator keep the Congress informed on the status of agency-by-agency implementation of the new procurement system standards. In this regard, amendments to the Armed Services and Federal Property Acts require that executive agencies implement procurement standards promptly

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after issuance. To fulfill this requirement, OFPP and agency Procurement Executives must continuously maintain good understandings of expected results of new standards and actual progress made in implementing them.

Subsection (3) requires that the Administrator keep the Congress informed on the status of the system of regulations; i.e., the single Government-wide procurement regulation and the agency implementing regulations. The ultimate goal here is a further streamlining of the contemplated Government-wide regulation to eliminate many of the procedural regulations or use them as guidance in expanded training programs, handbooks or visual aids. The goal for achieving this reduced regulation is two years after the enactment of this Act.

FURNISHING INFORMATION TO THE COMPTROLLER GENERAL

Section 13 amends section 14 of the Office of Federal Procurement Policy Act and redesignates it as section 11(b). This section continues the current requirements to furnish information to the Congress and the Comptroller General with minor revision. It requires that the Administrator keep the Congress and its duly authorized committees fully and currently informed of the major activities of the Office of Federal Procurement Policy. It deletes the current requirement for an annual report to the House of Representatives and the Senate and substitutes for that requirement the Federal Procurement System progress reports discussed above under section 12. This section also continues the current law to provide records access to the Comptroller General and to provide such information as he may require from time-to-time for the exercise of his responsibilities.

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AUTHORITY TO RESCIND REGULATIONS

Section 14 adds a new section 16 to the Office of Federal Procurement Policy Act which authorizes the Director of the Office of Management and Budget to deny or rescind the promulgation of any final rule or regulation of any executive agency relating to procurement if the Director determines that such rule or regulation is inconsistent with the policies set forth in the Office of Federal Procurement Policy Act or is inconsistent with any policy directive of the Administrator. Recision authority at this level in the Executive Office of the President is intended to ensure an effective and responsive Federal procurement system.

This section continues an authority previously given to the Director of OMB to ensure that agency regulations conform to procurement policies issued by OFPP. This authority should only have to be invoked rarely if ever. However, Congress believes that OMB should have such authority as a safeguard in the public interest.

ADMINISTRATIVE POWERS

Provisions of the current law which enable the Administrator for Federal Procurement Policy to call on the agencies for assistance, both in terms of resources and access to information, in developing Federal procurement policies (Section 7 of the OFPP Act; 41 U.S.C. 406) have not been amended. Some agencies have expressed the concern that these provisions give OFPP unlimited authority to augment its staff which may impair agency mission performance. Years of experience under the current law have not resulted in this kind of excess. Rather,

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OFPP has judiciously utilized interagency task groups, short term details, etc., to make sure that policies were developed with current operating needs in mind. The interest of this section is to continue to provide for meaningful participation by the agencies in this process.

AUTHORITY TO TEST NEW CONCEPTS AND METHODS OF COMPETITION

Section 17 provides authority and direction for a test of the new concepts and methods of competition described in Chapter 2, Section 4 of the proposal for a Uniform Federal Procurement System. The parameters of this test are further set forth in special legislation -- the Armed Services Competitive Procurement Test Act of 198_ and the Federal Property Competitive Procurement Test Act of 198_ -- which has been proposed by the Administration.

The Committee believes that the new concepts and method of competition are very viable, but because of concern by some agencies that such a change should be tested before it becomes law, the Committee is providing for that test. It is expected that the test will include a broad range of procuring activities, so that the results will provide a firm basis for decision with respect to further legislation.

While the test should be conducted along the parameters set forth, the Administrator is authorized to vary these parameters as necessary to ensure a fair and valid test.

ATTACHMENT C

A BILL

To amend chapters 137 and 141 of Title 10 of the United States Code, to simplify the procurement process, to strengthen management of the procurement system and the procurement work force, to provide testing of new contracting procedures which will expand the use of competition in Government contracting and to impose certain requirements on the award of non-competitive contracts, and for other purposes.

TITLE I

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled that this Title shall be known as the **"Armed Services Procurement Act Amendments of 198_."**

Sec. 102. Section 2301 of Title 10 of the United States Code is amended --

(1) by deleting "(including weapon systems and associated items)" in the second sentence of paragraph (1) of subsection (a);

(2) by deleting "such" and by inserting "and services" after "property" in the last sentence of paragraph (1) of subsection (a);

(3) by deleting "advance" and by deleting "weapon" and inserting in lieu thereof "major" in paragraph (2) of subsection (a); and

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(4) by deleting subsection (b) in its entirety and inserting in lieu thereof the following new subsection:

"(b) Further, it is the policy of the Congress that the Federal Government shall, with due regard to agency mission needs in support of national defense, rely on competitive private enterprise to supply needed property and services, and that the system for procurement of property and services by the Federal Government shall --

(1) promote responsiveness to agency mission needs by simplifying and streamlining procurement processes;

(2) promote effective competition;

(3) provide for a fair proportion of procurements to be placed with small business concerns;

(4) support the continuing development of a professional work force;

(5) promote fair dealings with the private sector;

(6) ensure payment is made in a timely manner and only for value received;

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(7) require the description of needs, whenever possible, in terms of functions to be performed or performance required;

(8) establish a preference for the use of commercial products to meet the Government's needs;

(9) ensure the development of procurement policies that will accommodate national emergencies and wartime as well as peacetime requirements;

(10) require that personal services are obtained in accordance with civil service procedures and not by contract; and

(11) otherwise promote procurement efficiency, effectiveness and economy within the Government and for those who do business with the Government."

Sec. 103. Section 2302 of Title 10 of the United States Code is amended by deleting section 2302 in its entirety and inserting in lieu thereof the following new section:

"SEC. 2302. DEFINITIONS

In this chapter --

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(1) The term 'agency head' shall mean the head or any assistant head of an executive agency and may, at the option of the agency head, include the chief official of any principal organization of such agency.

(2) 'Executive agency' means any executive department, military department, wholly-owned Government corporation, or independent establishment in the executive branch of the Government, or any independent regulatory agency.

(3) The term 'Federal agency' means any executive agency or any establishment in the legislative or judicial branch of the Government (except the Senate, the House of Representatives and any activities under the direction of the Architect of the Capitol).

(4) 'Person' means any individual, corporation, firm, group, State or local government, or other entity, foreign or domestic.

(5) 'Procurement' includes all stages of the process of acquiring property and services, beginning with how needs are described and ending with the close out of the contractual instrument.

(6) 'Property' means personal property (products) and leaseholds and other interests therein, and construction, alteration or repair of real property, but excludes real property and leaseholds and other interests therein.

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(7) 'Services' means labor, time, or effort furnished under a nonpersonal services contract."

Sec. 104. Section 2303 of Title 10 of the United States Code is amended --

(1) by deleting "the purchase, and contract to purchase" in subsection (a) and inserting in lieu thereof "procurement"; and

(2) by redesignating paragraphs (1) through (5) as paragraphs (2) through (6), respectively, and by inserting the following new paragraph before paragraph (2) in subsection (a): "(1) The Department of Defense."

Sec. 105. Section 2304 of Title 10 of the United States Code is amended --

(1) by deleting "324 and 325a" and inserting in lieu thereof "328(a) and 330" in paragraph (3) of subsection (f); and

(2) by adding at the end of section 2304 a new subparagraph:

"(i) Small purchases. Purchases not expected to exceed \$25,000 or an amount established by the Administrator for Federal Procurement Policy pursuant to section 9 of the Office of Federal Procurement Policy Act Amendments of 198- (41 U.S.C. 408) are small purchases. A proposed procurement shall not be divided into smaller procurements primarily for the purpose of using the small purchase procedures. Procurement regulations

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shall include special simplified procedures and forms for small purchases, to facilitate making the purchases efficiently and economically."

Sec. 106. Section 2306 of Title 10 of the United States Code is amended --

(1) by inserting "in excess of the ceiling for small purchases in section 2304(i)" before "negotiated" in the first sentence of subsection (b);

(2) by deleting the first, third, and last sentences of subsection (d);

(3) by deleting "items of supply" in paragraph (1) of subsection (g) and inserting in lieu thereof "property";

(4) by deleting "military" in subparagraph (1)(B) of subsection (g);

(5) by deleting "base" in subparagraph (1)(D) of subsection (g) and inserting in lieu thereof "other";

(6) by deleting "weapon" each place it appears in the first sentence of paragraph (1) of subsection (h) and inserting in lieu thereof "major";

(7) by deleting "security" in subparagraph (1)(A) of subsection (h) and inserting in lieu thereof "interest";

(8) by deleting "Department of Defense" in subparagraph (1)(C) of subsection (h) and inserting in lieu thereof "agency";

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(9) by deleting subparagraph (2)(A) of subsection (h) in its entirety and inserting in lieu thereof the following new subparagraph: "(2)(A) Regulations in accordance with section 2318 shall be prescribed which will promote the use of multiyear contracting as authorized by paragraph (1) in a manner that will allow the most efficient use of multiyear contracting.";

(10) by deleting "defense" in subparagraph (2)(C) of subsection (h);

(11) by deleting "in the Department of Defense" in subparagraph (2)(D) of subsection (h);

(12) by deleting "weapon" in paragraph (4) of subsection (h) and inserting in lieu thereof "major";

(13) by deleting paragraph (7) of subsection (h) in its entirety, and by redesignating subsection (8) as subsection (7); and

(14) by adding at the end of subsection (h), the following new subsection: "(i) When so specified in an Appropriation Act, and when multiyear contracting is not feasible or desirable, contracts for support services may be entered into using appropriations available for obligation only within the fiscal year for which appropriated, for periods not in excess of twelve months, beginning at any time during the fiscal year.".

Sec. 107. Section 2307 of Title 10 of the United States Code is amended by deleting subsection (d) in its entirety and substituting in lieu thereof: "(d) In any

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contract providing for progress payments, the Government shall have title to all property acquired or produced by the contractor and allocable or properly chargeable to the contract. Notwithstanding any other provisions of law, that title may not be divested by any action of the contractor or proceeding in bankruptcy or encumbered by any lien or security interest."

Sec. 108. Section 2313 of Title 10 of the United States Code is amended --

(1) by inserting "in excess of the ceiling for small purchases in section 2304(i)" before "negotiated" in subsection (b); and

(2) by deleting the sentence that appears at the end of subsection (c) after paragraph (2).

Sec. 109. Section 2314 of Title 10 of the United States Code is amended by deleting "6, 6a" and inserting in lieu thereof "8".

Sec. 110. Section 2315 of Title 10 of the United States Code is amended by deleting "795" and inserting in lieu thereof "759".

Sec. 111. Chapter 137 of Title 10 of the United States Code is amended by adding the following new section:

"SEC. 2316. MANAGEMENT RESPONSIBILITIES

(a) The Secretary of Defense, jointly with the Administrator for General Services and the Administrator of the National Aeronautics and

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Space Administration, shall develop, issue and maintain a Government-wide procurement regulation and ensure that the views of the executive agencies are considered.

(b) Heads of agencies shall:

(1) establish clear lines of authority, accountability, and responsibility for procurement decisionmaking;

(2) assign responsibility for management direction of the procurement system and provide that system standards are implemented promptly; and

(3) develop and maintain procurement career management programs to ensure an adequate professional work force."

Sec. 112. Chapter 137 of Title 10 of the United States Code is amended by adding "Sec. 2316. Management Responsibilities" at the end of the table of sections.

Sec. 113. Section 2393 of Title 10 of the United States Code is amended by deleting in paragraph (1) of subsection (a) "the Secretary of a military department" and inserting in lieu thereof "the Secretary of the Department of Defense, the Secretary of a military department, the Commandant of the Coast Guard, and the Administrator of the National Aeronautics and Space Administration (hereinafter the "Secretary")".

TITLE II

Sec. 201. This Title shall be known as the "Armed Services Competitive Procurement Test Act of 198_."

Sec. 202. Authority to test new concepts and methods of competition

Section 6 of the Office of Federal Procurement Policy Act of 1974, as amended (41 U.S.C. 405(b)), authorizes the Administrator for Federal Procurement Policy (hereinafter the "Administrator") to develop innovative procurement methods and procedures to be tested by selected executive agencies. The Administrator is required to test the new concepts of competition as set forth in the Administration's Proposal for a Uniform Federal Procurement System, by working jointly with the heads of the executive agencies to --

- (1) develop guidelines and procedures for testing; and
- (2) select the appropriate executive agencies or agency components to conduct tests of these concepts.

Sec. 203. Test parameters

Such tests shall be conducted within the following parameters:

- (a) Competition

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(1) Bids shall be solicited from prospective sources to ensure effective competition in obtaining needed property or services. Except where circumstances require the use of detailed Government specifications, an agency shall use functional specifications to describe its needs.

(2) In noncompetitive procurement, the agency must be assured that the property or services are obtained at fair and reasonable prices. Noncompetitive procurement of property and services is appropriate only when --

(A) the property or service is available from a single source and no competitive alternatives are available;

(B) a serious emergency will not permit the delay inherent in obtaining competitive bids;

(C) an award must be directed to a specified person or persons --

(1) in order to create or maintain an essential industrial capability;

(2) for purposes of industrial mobilization; or

(3) because it is impracticable or uneconomical to obtain competition for follow-on procurements;